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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/035,214      | 01/04/2002  | Andrew Baker         | 53394.000548        | 3478             |

7590 07/28/2005

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| EXAMINER |
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ANDERSON, CATHARINE L

|          |              |
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| ART UNIT | PAPER NUMBER |
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3761

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/035,214

Applicant(s)

BAKER, ANDREW

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 20-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-19 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/4/02</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of claims 1-19 in the reply filed on 22 April 2005 is acknowledged.

Claims 20-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 22 April 2005.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (5,807,364) in view of Peschl (3,973,703).

Hansen discloses all aspects of the claimed invention but remains silent as to the portion of the apparatus that deposits the particulate matter. Hansen discloses an apparatus for depositing particulate matter 84 into a supply of fibrous material 32, as shown in figure 2. The particulate matter 84 is deposited from a device 72 having an outlet positioned above the supply of fibrous material 32, as shown in figure 2. Hansen discloses in column 9, lines 8-10, that any suitable device for depositing the particulate matter may be used.

Peschl discloses an apparatus for depositing particulate matter, as shown in figure 1, comprising a feed tray 7 having an open top providing an inlet for receiving a supply of particulate matter from outlet funnel 1. A shuttle pan 2 is slideably positioned to form the lower pan of the feed tray 7, as shown in figure 5. A mechanism 6 moves the shuttle pan 2 through a range of motion comprising strokes, as disclosed in column 2, lines 46-68. The apparatus taught by Peschl allows the discharge of particulate matter in an efficient manner, as disclosed in column 1, lines 58-64.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the apparatus of Hansen with the feed tray and shuttle pan of Peschl to allow the discharge of particulate matter in an efficient manner.

With respect to claim 2, the particulate matter comprises superabsorbent polymer, as disclosed in column 8, lines 52-56.

With respect to claim 3, the fibrous substrate material comprises cellulose acetate, as disclosed in column 11, lines 54-60.

With respect to claim 4, Peschl discloses the shuttle pan 2 comprises the lower pan of the feed tray 7, as shown in figures 5 and 6.

With respect to claim 5, the fibrous substrate material is conveyed by a conveying mechanism 32, as shown in figure 2, which is offset from the outlet edge distributing the particulate matter.

With respect to claims 6-8, it would have been obvious to one of ordinary skill in the art at the time of invention to place the outlet of the dispensing apparatus between 0.375 and 1 inch from the fibrous substrate material since it has been held that where

the general conditions of the claim (i.e. the dispensing of particulate matter into a fibrous substrate material on a conveying mechanism), finding the optimum or workable ranges involves only routine skill in the art. *In re Allen*. 105 USPQ 233.

With respect to claim 9, when the shuttle pan of Peschl is placed above the conveying mechanism of Hansen, the shuttle pan will be parallel to the conveying mechanism.

With respect to claims 12-14, it would have been obvious to one of ordinary skill in the art at the time of invention to make the range of motion comprise a stroke distance of 6 and 9 inches since it has been held that where the general conditions of the claim (i.e. the shuttle pan moving in stroke range of motion to distribute particulate matter), finding the optimum or workable ranges involves only routine skill in the art. *In re Allen*. 105 USPQ 233.

With respect to claim 15, the mechanism 6 is mounted on the feed tray 7, as disclosed in column 4, lines 57-58, and therefore the feed tray 7 is vibratory.

With respect to claim 16, the feed tray 7 is fixed to the funnel 1.

With respect to claim 17-19, Peschl further discloses a metered flow device, as described in column 1, lines 11-16, but remains silent as to the method of metering the flow into the shuttle pan. Auger-type and weight-based metering devices are well-known in the art for allowing flow of particulate matter from a hopper during dispensing. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the apparatus of Peschl with an auger-type of weight-based metering device to provide control over the particulate matter as it is dispensed.

***Allowable Subject Matter***

Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose the claimed invention. With respect to claim 10, positioning the shuttle pan so that it is not parallel to the conveying mechanism to create varying offset distances allows the particulate matter to be dispensed in varying concentrations, as described on page 64 of the instant specification. With respect to claim 11, the use of a combining drum allows the production to operate at higher speeds, and therefore be more productive, as described in the paragraph bridging pages 52 and 53 of the instant specification.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CUA  
cla  
July 24, 2005

TATYANA ZALUKAEVA  
PRIMARY EXAMINER

